

LEASE AGREEMENT

BETWEEN

MONTGOMERY COUNTY, MARYLAND

AND

TAKOMA PARK VOLUNTEER FIRE DEPARTMENT, INC.

DATE: November 20, 2007

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Exhibit A- Leased Premises, Exclusive Leased Premises  
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## LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease"), made this 10<sup>th</sup> day of November, 2007, by and between MONTGOMERY COUNTY, MARYLAND, a body corporate and politic and a political subdivision of the State of Maryland (the "County") and TAKOMA PARK VOLUNTEER FIRE DEPARTMENT, INC., a non-stock corporation organized under the laws of the State of Maryland and having a determination letter from the Internal Revenue Service as to its status as an organization qualified under § 501 (c) (3) of the Internal Revenue Code of 1986, as amended (the "Tenant" or the "TPVFD"), (the County and the Tenant together the "Parties").

### WITNESSETH:

WHEREAS, pursuant to a deed to be dated the same date as this Lease between the County and the TPVFD, the TPVFD transferred fee simple title to the land and improvements located at 7201 Carroll Avenue, Takoma Park, Maryland, known as the Takoma Park Fire Station #2 ("Station #2"); and

WHEREAS, in consideration of the TPVFD transferring title to Station #2 to the County, the County has agreed to offer certain areas of Station #2 for exclusive use by the TPVFD under the terms and conditions set forth in this Lease; and

WHEREAS, in order to promote a clear understanding as to the use, maintenance, and repair of the areas and components of Station #2, it is the desire and intent of the County and the TPVFD that Station #2 be operated in accordance with and subject to the terms and conditions set forth in this Lease.

In consideration of the promises contained in this Lease, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties mutually agree as follows:

1. STATION #2, LEASED PREMISES, EXCLUSIVE LEASED PREMISES:

A. The County does hereby grant to the TPVFD the right to use and occupy in common with the County all areas of Station #2, as outlined in Red on Exhibit A, which is attached and incorporated in to this Lease, except as otherwise set forth in paragraphs B, C and D below, (the "Common Areas").

B. The County does hereby grant to the TPVFD the right to the exclusive use of space located in Station #2 as cross-hatched on the EXHIBIT A (the "Leased Premises"). The Leased Premises contains the following: (i) TPVFD OSC area 045; (ii) TPVFD Treasurer's office room 043; (iii) TPVFD Chief's office room 042; (iv) President's office room 041; (v) Conference room 039; (vi) Rest room 044; (vii) Closet 038, (viii) Storage 037; and (ix) Corridor 036. The County may only use and occupy the Leased Premises with the prior approval of the TPVFD, which must not be unreasonably conditioned, withheld or delayed, except in the case of emergencies and facility maintenance and repairs, which shall be at the discretion of the Montgomery County Fire and Rescue Services ("MCFRS") Fire Chief or designee, with no prior notice or approval deemed necessary. The County will coordinate with the TPVFD on any routine maintenance or repairs, and will not designate routine maintenance or repairs to be emergencies for the purposes of avoiding consultation with the TPVFD.

C. The County has the exclusive right to occupy and use the space designated as Office 007, as double cross-hatched on the EXHIBIT A (the "Exclusive Leased Premises").

D. The Common Areas will be managed and controlled by the MCFRS Fire Chief or his designee.

2. USE OF STATION #2, LEASED PREMISES:

A. Station #2 shall be used for the purpose of providing fire and rescue services by the County and the TPVFD, with such services to be consistent with the policies of the MCFRS. In addition, the TPVFD shall have the right to use the Station #2 for any other legal purpose consistent with the use of a fire station in Montgomery County. The TPVFD and the County shall ensure that all of the uses of Station #2 are lawful, consistent with County policies, and conducted in a manner that does not create unreasonable risk of loss or liability for the County or TPVFD. The use of Station #2 as provided for in this paragraph shall not be changed without the consent of the MCFRS

Fire Chief. The County shall have the right to determine any and all matters regarding the use, management, maintenance, and operation of Station #2 (including the Leased Premises) and shall retain ultimate control and authority over the day to day operations of Station #2, except as otherwise described in this Lease.

B. The TPVFD shall operate Station #2, the Leased Premises and the Exclusive Leased Premises in the manner as more fully described in the Facility Operating Agreement ("FOA") as EXHIBIT B which is attached and incorporated into this Lease

3. RENT: In consideration of services provided by the TPVFD as set forth in attached Lease, and for the rights and obligations provided for in this Lease, the TPVFD shall pay One Dollar (\$1.00) per year. All payments are to be made in advance on the first day of the Term, during each Lease year, and shall be payable by check to: Montgomery County, Maryland, Office of Real Estate, P. O. Box 75549, Baltimore, Maryland 21275-5549.

4. LEASE TERM: The term of this Lease is for fifty (50) years, followed by four (4) consecutive ten (10) year option periods, for a total of ninety (90) years, commencing on the date the Tenant takes possession of the Leased Premises (the "Lease Term").. Tenant shall provide the County written notice of its intention to exercise any one of its' successive options no later than one hundred eighty (180) calendar days before expiration of the then applicable lease term. Terms and conditions shall remain the same during the option period.

5. CONDITION OF LEASED PREMISES: Tenant accepts the Leased Premises in "as is" condition. Tenant agrees to maintain the Leased Premises in good condition and free of clutter throughout the Lease Term. Tenant acknowledges and agrees that at the end of the Lease Term, the Leased Premises shall be returned to the County in the same condition as they were when Tenant accepted the Leased Premises, with reasonable wear and tear and damage due to casualty excepted.

6. SIGNS: Signage shall be permitted to be displayed by the TPVFD as set forth in the FOA, as amended from time to time.

7. ASSIGNMENT: The Tenant shall not assign, transfer, mortgage or otherwise encumber this Lease or sublet or rent (or permit a third party to occupy or use) the Leased Premises

or any part of the Leased Premises, except as may be permitted in the FOA, as maybe amended from time to time.

8. ALTERATIONS AND IMPROVEMENTS:

A. The TPVFD is authorized to build out the roughed in training room in the basement, currently designated as Room 101, provided that the County's Department of Public Works and Transportation approves the final plans and specifications, including all change orders and the County 's Department of Permitting Services issues all necessary permits to compete the work . The TPVFD is responsible for all project expenses including design, construction, integration of this area into existing building systems and obtaining the required permits.

B. The TPVFD may not make structural changes to Station #2 (including the Leased Premises) without the prior consent of the County, which shall not be unreasonably withheld or delayed. This provision includes the build out of room 101, in 8A, above.

C. The TPVFD may make non-structural changes to the Leased Premises without consent of the County.

D. The County reserves the right to may make any structural and non-structural changes to Station #2, including the Leased Premises, as it deems necessary. The County has the right at any time to make alterations, changes, and improvements to the Leased Premises on reasonable notice to the TPVFD. Such actions shall not unreasonably preclude, limit, or prevent the continued use of the Leased Premises by the TPVFD.

9. SERVICES AND OPERATING EXPENSES:

A. Grounds: The County is responsible for grounds maintenance, including landscaping and cutting of grass. Such grounds maintenance shall be consistent with the amount and quality of grounds maintenance provided at other County-owned facilities.

B. Sidewalks, driveways, and aprons: The County is responsible for the repair and replacement of all sidewalks, driveways, aprons and parking areas at Station #2. The County shall be responsible for snow and ice removal.

C. Station #2 Building Maintenance: The County is responsible for the maintenance and repair of Station #2, which shall include but not be limited to: all roofs, gutters, downspouts, windows, doors (including bay doors), doorways, walls, ceilings, fixed cabinets, countertops and floors throughout Station #2, including the Leased Premises. The TPVFD has the ability but not the responsibility to maintain or repair certain building components as specified in the FOA, as may be amended from time to time.

D. Mechanical: The County is responsible for the maintenance and repair of all fire suppression systems, vehicle exhaust removal systems, heating, ventilating and air conditioning equipment, hot water heaters, sewers, drains and plumbing fixtures, including fuel dispensing equipment, if any, for Station #2.

E. Electrical: The County is responsible for the maintenance and repair of all electrical wiring, emergency generators, fire detection/notification systems, permanently mounted electrical fixtures and electrical motors, and controls for fixed systems for Station #2.

10. FURNITURE, FIXTURES AND EQUIPMENT: At the termination of this Lease, Tenant must deliver to the County the Leased Premises in good, clean condition, reasonable wear and tear excepted. All items which are attached to Station #2, or are a part of the Leased Premises' systems at the time the Leased Premises is delivered to Tenant, shall remain with Station #2. Any personal property remaining within the Leased Premises after termination of the Lease shall become property of the County. The County shall dispose of any such property in the manner it deems appropriate.

11. INSURANCE: The TPVFD shall obtain and maintain insurance of the type and amount required by the attached FOA, as may be amended from time to time.

12. HOLD HARMLESS:

A. The Tenant agrees to hold harmless and defend the County from and against any and all claims of liability, actions, damages and expenses arising out of or related to the Tenant's breach of this Lease or use or possession of Station #2, including the Leased Premises, occasioned wholly or in part by any act or omission of the Tenant, its agents, contractors or employees, except

such claims arising solely from the negligent acts or omissions of the County, the County's employees, and contractors, as further specified in paragraph 13 F. below.

B. The County agrees to hold harmless and defend the Tenant from and against any and all claims of liability, actions, damages and expenses arising out of or related to the County's breach of this Lease or use or possession of Station #2, including the Leased Premises, occasioned by any negligent act or omission of the County, its agents, contractors or employees, except such claims arising solely from the negligent acts or omissions of the Tenant's, the Tenant's employees, agents and contractors. Any indemnification given by the County in this Paragraph or elsewhere in this Lease is subject to the notice requirements and damages limitations stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. Sec. 5-301, et seq. (2006 Repl. Vol.) (the "LGTCA"); Md. Code Ann. Art. 25A, Sec. 1A (2005 Repl. Vol.); Md. Code Ann., Cts. & Jud. Proc. Sec. 5-509 (2006 Repl. Vol.) and Md. Code Ann., Cts & Jud. Proc. Sec. 5-603, 5-604, and 5-639 (2006 Repl. Vol.) (together the "County Indemnification Statutes"), all as amended from time to time.

13. RESPONSIBILITIES OF TENANT: Tenant covenants and agrees as follows:

A. Tenant shall not keep gasoline or other flammable material or any explosive within the Leased Premises which will increase the rate of fire insurance on the Leased Premises beyond the ordinary risk established for the operation of a fire-rescue station. Any such increase in the insurance rate due to the above, or due to Tenant's operations within the Leased Premises, shall be borne by Tenant. Tenant shall not willfully do any act or thing in or about the Leased Premises which may make void or voidable any insurance on the Leased Premises, and Tenant, upon receipt of the same in writing, agrees to conform to all rules and regulations established from time to time by the County, the Maryland Insurance Rating Bureau, or any other authority having jurisdiction over such matters.

B. Tenant shall not use or allow Station #2, including the Leased Premises, to be used for any illegal, unlawful or improper purpose or for any act or thing that may cause damage to Station #2, including the Leased Premises, adjacent properties or the adjacent neighborhood.

C. Tenant acknowledges that all responsibilities of Tenant relating to the use or misuse of Station #2, including the Leased Premises, and anything therein shall be construed to include use or misuse thereof by Tenant's agents and employees, guests and invitees.



D. Tenant shall not have pets in or about Station #2, including the Leased Premises. This provision does not limit Tenant or Tenant's clients' rights to have bona fide service animals in Station #2, including the Leased Premises. Tenant is solely responsible for the proper care of service animals in Station #2, including the Leased Premises which are brought in by Tenant and in keeping the same clean and free of debris and waste associated with the care and feeding of service animals.

E. Tenant, upon receipt of the same in writing shall comply with all reasonable rules and regulations with regard to the use of Station #2 that may be from time to time promulgated by County, and any violation of said rules and regulations upon the expiration of any applicable notice and cure period shall be deemed to constitute a violation of this Lease. It is understood that such rules and regulations shall not unreasonably interfere with or prevent the intended uses of Station #2 as set forth in this Lease. County shall not discriminate against Tenant in the enforcement of any rule or regulation. If there shall be a conflict between this Lease and rules and regulations, the terms of this Lease shall govern.

F. The Tenant must indemnify, defend and hold the County and the County's employees (together the "Indemnitees") harmless from and against all liabilities, obligations, damages, judgments, penalties, claims, costs, charges and expenses, including, without limitation, reasonable architects' and attorney's fees, which may be imposed upon, incurred by, or asserted against any of the Indemnitees and arising, directly or indirectly, out of, or in connection with (i) The Tenant's breach of its obligations under this Lease; (ii) the acts or negligence of the Tenant, its agents, contractors, and employees at Station #2 or in the Leased Premises; and (iii) the use or occupancy of Station #2, and by the Tenant, its agents, servants, employees and contractors. In case any action or proceeding is brought against any of the Indemnitees by reason of any of the foregoing, the Tenant must reimburse the County the cost of defending such action or proceeding, or upon the County's written demand and at the Tenant's sole cost and expense, the Tenant must defend such action and proceeding by counsel approved by the County.

G. The Tenant must not strip, overload, damage, or deface Station #2, including the Leased Premises, including, but not limited to, hallways, stairways, or elevators.

H. The Tenant must not permit any trade or occupation to be carried on or use made of Station #2, including the Leased Premises, outside the scope of this Lease. Further the Tenant agrees to and must obey any and all federal, state, county and local laws and regulations relating to their operation of business on and in Station #2, including the Leased Premises.

I. The Tenant must not interfere with the County's use of Station #2.

14. DESTRUCTION OF STATION #2: In the event of damage to or destruction of Station #2 or any part of Station #2 by fire, storm, flood or other casualty which does not require the Tenant to suspend entirely its business, the County shall, as soon as practicable after said damage or destruction, repair and restore Station #2 to the condition it was immediately prior to said damage or destruction. Should such damage or destruction render Station #2 wholly unavailable for use by the Tenant for use as a fire station, the County shall have the option, but not the obligation, to begin the repairing, restoration and rebuilding of Station #2 as nearly as possible to the condition it was immediately prior to such damage or destruction or with such changes or alterations as the County may determine appropriate. In event the County elects not to rebuild, the County may terminate this Lease within thirty (30) days following the date of the destruction of Station #2 as described above by sending a termination notice to the Tenant.

15. DEFAULT:

A. Tenant shall be considered in default of this Lease and County may terminate this Lease upon the occurrence of any of the following:

- (a) failure to perform under any term, covenant or condition of this Lease and the continuance thereof for thirty (30) days after written notice from the County specifying said failure, or such lesser or greater time as may be required, in the County's sole reasonable judgment, with Tenant acting diligently;
- (b) the commencement of any action or proceeding for the dissolution or liquidation of Tenant, or for the appointment of a receiver or trustee of Tenant's property, and the failure to discharge any such action within thirty (30) days;
- (c) the making of any assignment for the benefit of Tenant's creditors;
- (d) the abandonment of Station #2 by Tenant, which is defined for purposes of this Lease as the continuous failure to occupy Station #2 for sixty (60) consecutive days, or any

combination of one hundred and twenty (120) days during any twelve (12) month period during the Lease Term without written agreement of the County through MCFRS ;

(e) use of Station #2, including the Leased Premises, by the Tenant or with the consent of Tenant, for uses other than as set forth in paragraph 2; and

(f) the intentional use of Station #2, including the Leased Premises, by Tenant or by Tenant's agents, employee, contractors, or guests, for any unlawful purpose.

B. In the event that the Tenant shall be found in default as stated in 15A above, and shall fail to cure said default within thirty (30) days after written notice from the County (or such period as may be reasonably required to correct the default with exercise of due diligence), or such lesser time as the exigencies of the situation may require, which period shall run simultaneous with the curative period set forth in 15A above, then the Tenant's right of possession shall end, the Lease shall be terminated by the County, and the County may proceed to recover possession under the laws of the State of Maryland.

16. ACCESS: Tenant shall allow County and County's employees and contractors to have access to the Leased Premises at all times for the purpose of inspection in the event of fire or other property damage; or for the purpose of performing any work required to be performed by County, which the County considers necessary or desirable, or for any other purpose pursuant to the reasonable protection of the Leased Premises. This Paragraph is not intended to limit in any way the County's right to inspect the Leased Premises in its governmental capacity in accordance with County laws and regulations.

17. SURRENDER OF POSSESSION: Tenant covenants and agrees that, at the expiration or other termination of this Lease, to remove all goods and effects from Station #2, including the Leased Premises, not the property of the County, and to yield up to the County Station #2, including the Leased Premises and all keys, locks and other fixtures connected therewith (except property belonging to Tenant), in good repair, order and condition in all respects, reasonable wear and use thereof and damage by fire or other casualty and damage from any risk with respect to which Tenant is not herein expressly made liable excepted. Tenant shall pay for all damages to Station #2, including the Leased Premises, its fixtures, and appurtenances, as well as all damages sustained by Tenant or occupants of Station #2, including the Leased Premises, due to any waste, misuse, or neglect of said Leased Premises, its fixtures, and appurtenances, caused by Tenant, its

employees, or any other person or persons upon Station #2, including the Leased Premises by Tenant's permission.

18. NOTICE OF ACCIDENTS, DEFECTS OR DAMAGES: Tenant shall give to the County prompt verbal notice of accidents in or damages to Station #2, and, within twenty-four (24) hours, the Tenant shall follow-up with a detailed written report of such accidents or damages.

19. CONDUCT AND SAFETY: The Tenant must conduct all of its operations hereunder in a workmanlike, efficient, safe and careful manner; observe such safety precautions and rules in its operations as the County from time to time may reasonably require; and maintain Station #2 at all times in safe and good operating condition and repair in accordance with the terms of the Lease.

20. COMPLIANCE WITH LAWS: It is understood, agreed and covenanted by and between the Parties that Tenant, at Tenant's expense, shall promptly comply with, observe and perform, as their interests under this Lease require, all of the requirements of all of the statutes, ordinances, rules, orders, regulations and policies now in effect or hereinafter promulgated whether required by the Federal Government, State of Maryland, Montgomery County Government, or any municipality in which Station #2 is located, Montgomery County Department of Environmental Protection or Montgomery County Fire Marshal's Office or MCFRS (the "Applicable Laws").

21. WAIVER: The waiver of at any time by either of the Parties of any particular covenant, condition, obligation, or duty under this Lease shall extend to the particular case only, and for the particular time and in the particular manner specified, and such waiver must not be construed or understood as waiving any further or other rights of either Party.

22. NON-DISCRIMINATION: The Tenant agrees to comply with the non-discrimination in policies in County contracts as required by Section 11B-33 and Chapter 27 of the Montgomery County Code (2004), as amended, as well as all other federal, state and local laws, policies, orders and regulations regarding discrimination. By signing this Lease, the Tenant assures the County that in accordance with applicable law, it does not, and agrees that it will not engage in any discrimination in violation of the above sections of the Montgomery County Code as well as any other federal, state or local laws, rules and regulations.

23. PUBLIC EMPLOYMENT: The Tenant understands and agrees that unless authorized under Sections 11B-52 and Chapter 19A of the Montgomery County Code 2004, as amended, that it is unlawful for any person or entity transacting business with Montgomery County, Maryland, to employ a public employee for employment contemporaneous with his or her public employment.

24. MAILING NOTICES: All notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail and shall be deemed to be effective when received or refused by the addressee. Notices to the respective Parties shall be addressed as follows:

Tenant:

Takoma Park Volunteer  
Fire Department, Inc.  
7201 Carroll Avenue  
Takoma Park, MD 20912  
Attention: President

County:

Montgomery County, Maryland  
Department of Public Works &  
Transportation  
Office of Real Estate  
101 Monroe Street, 10<sup>th</sup> Floor  
Rockville, Maryland 20850  
Attn: Director of Real Estate

With a copy, that does not constitute  
Notice to:

Montgomery County, Maryland  
Office of the County Attorney  
101 Monroe Street, 3<sup>rd</sup> Floor  
Rockville, Maryland 20850  
Attn: County Attorney

25. RESIDENT AGENT: The Resident Agent for the Tenant is Fred R. Joseph, and the address for receipt of notices and service of process is 1345 University Blvd., East Hyattsville, Md. 20783 . Tenant must immediately notify County of any change in resident agent or address as provided herein.

26. PROHIBITION OF HAZARDOUS SUBSTANCES: The Tenant agrees not to store or bring hazardous substances into Station #2, other than those customarily related to the use of Station #2 as a fire station. The Tenant indemnifies the County against any and all claims of any personal injuries or personal and real property damage as a result of any hazardous substance being

brought into Station #2 by the Tenant, its agents, contractors or employees or guests, other than those customarily related to the use of Station #2 as a fire station.

27. NON-APPROPRIATION: This Lease is subject to the appropriation of funds. If funds are not appropriated, in whole or in part, for any reason whatsoever, the County shall have the right to terminate the Lease on July 1 of the calendar year which the County does not appropriate funds. The County shall give Tenant thirty (30) days written notice of the lack of appropriation. The Tenant shall not make or be entitled to any claim for reimbursement of any kind, whether for improvements or prepaid items.

28. AMERICAN WITH DISABILITIES ACT REQUIREMENTS: County and Tenant agree that any future modifications made to the Leased Premises shall be made in conformance with the requirements of the Americans with Disabilities Act, the Federal Fair Housing Act, and all safety and accessibility requirements in Federal, State, and County Laws and regulations. Tenant must obtain all required permits prior to making any modifications to the Leased Premises and must comply with all applicable Building and Safety Codes.

29. EMINENT DOMAIN: The Tenant is not entitled to any condemnation award granted to the County as owner of Station #2. In the event that Station #2 shall be taken by any governmental or quasi-governmental authority, other than the County, pursuant to its power of eminent domain or sold under threat of such taking, the Tenant will not be entitled to recover from the County any capital expenditures for improvements and betterments made by the Tenant to Station #2, including the Leased Premises, at the Tenant's expense.

30. FORCE MAJEURE: Neither Party will be deemed in default with respect to the performance of any terms, covenants, and conditions of this Lease if same shall be due to any strike, lockout, civil commotion, war-like operation, invasion, rebellion, hostilities, military or upsurged power, sabotage, inability to obtain any material or service, through natural or other cause beyond the control of either party; provided, however, that this provision shall not excuse any non-payment of rent. For purposes of this provision, lack of funds shall not be considered a cause beyond the control of the Tenant.

31. ENTIRE AGREEMENT: It is further understood and agreed that this instrument contains the entire agreement between the Parties hereto and shall not be modified in any manner except by an instrument in writing duly executed by the Parties hereto.

32. MODIFICATION: This Lease (other than the Rules and Regulations, which may be changed from time to time) must not be modified in any manner except by an instrument in writing executed by both Parties with the same formality as this Lease.

33. GOVERNING LAW: This Lease and its performance is to be governed, interpreted, construed and regulated by the laws of Montgomery County and the State of Maryland.

34. CLAIMS: Any action brought by or on behalf of either Party in connection with the performance of this Lease must be filed and maintained in a court of competent jurisdiction in Montgomery County, Maryland.

35. PARKING: The Tenant is entitled to the non-exclusive use of the parking facilities which are a part Station #2. Parking for the Tenant and any other occupants of the building, their staff, clients and guests will be confined to the surfaced parking areas on the site.

36. ASSIGNMENT AND SUBLEASING: Tenant will not assign or sublease any part of Station #2, including the Leased Premises, to any third party for any use at any time during the term of this Lease.

37. HOLDOVER: In the event that Tenant shall continue to occupy Station #2 or any part thereof after the conclusion of the term of this Lease, the tenancy thus created shall be deemed to be upon a month-to-month basis and may be terminated by the County giving the Tenant not less than thirty (30) days written notice, to expire on the day of the month from which the tenancy commenced. During any month-to-month tenancy, both Parties shall continue to observe all agreements and covenants contained in this Lease.

38: THE COUNTY'S TITLE AND COVENANT OF QUIET ENJOYMENT: The County covenants that it has full right and power to execute and perform this Lease. The County covenants and agrees that, if Tenant shall perform all the covenants, conditions, and agreements herein contained to be performed on Tenant's part, Tenant shall at all times during the term of this

Lease have the peaceable and quiet enjoyment and possession of Station #2, including the Leased Premises for the purposes leased, unless the lease is terminated under the default provisions herein provided.

39. BENEFIT AND BURDEN: The provisions of this Lease shall be binding upon, and shall inure to the benefit of the Parties and each of their respective successors, assigns or representatives.

40. CONTRACT SOLICITATION: Tenant represents that Tenant has not retained anyone to solicit or secure this Lease from Montgomery County, Maryland, upon agreement or understanding for a commission, percentage, brokerage or contingent fee.

41. PUBLIC EMPLOYMENT: Tenant understands that unless authorized under Sections 11B-52 and Chapter 19A of the Montgomery County Code 1994, as amended, it is unlawful for any person transacting business with Montgomery County, Maryland, to employ a Montgomery County employee contemporaneous with his or her County employment.

42. INDEMNIFICATION BY COUNTY: Notwithstanding anything in this Lease to the contrary, any indemnification given by the County is subject to the liability and damage caps stated in the County Indemnification Statutes. This indemnification is not intended to be a waiver of governmental immunity by the County, and is not intended to create any rights or causes of action in third Parties. The County shall not be liable for damages or injury occasioned by the acts or omissions of Tenant or its agents, or failure to comply with its obligations under this Lease.

SIGNATURE PAGE FOLLOWS



IN WITNESS WHEREOF, the Parties have caused this AGREEMENT to be properly executed.

WITNESS:

COUNTY:  
MONTGOMERY COUNTY,  
MARYLAND

By: Rebecca S. Domaruk

By: Timothy L. DiRestine  
Timothy L. DiRestine,  
Chief Administrative Officer

Date: 11/20/2007

WITNESS:

TENANT:  
TAKOMA PARK VOLUNTEER FIRE  
DEPARTMENT, INC.

By: Edna E. Hamer

By: Edna E. Hamer

Title: PRESIDENT

Date: 7-17-07

APPROVED AS TO FORM &  
LEGALITY  
OFFICE OF THE COUNTY  
ATTORNEY

RECOMMENDED:

By: Cynthia L. Brenneman

By: Cynthia L. Brenneman  
Cynthia L. Brenneman, Director  
Office of Real Estate

Date: 7/17/2007

Date: 7/16/07

RECOMMENDED:

By: Thomas W. Caff  
Thomas W. Caff, Fire Chief  
Montgomery County Fire and Rescue  
Services

Date: 7/16/07

[illegible]

# STREET LEVEL PLAN

## EXHIBIT B

### FACILITY OPERATING AGREEMENT (FOA)

THIS FACILITY OPERATING AGREEMENT (the "Agreement") made this 20<sup>th</sup> day of November 2007 by and between MONTGOMERY COUNTY MARYLAND, a body corporate and politic (the "County") and TAKOMA PARK VOLUNTEER FIRE DEPARTMENT, INC., a Maryland non-profit 501(c) 3 organization ("TPVFD"), the County and the TPVFD together the "PARTIES".

#### WITNESSETH:

WHEREAS, the County and the TPVFD have entered into a license agreement regarding the use of Station #2; and

WHEREAS, this agreement is an appendix to the license agreement for Station #2; and

WHEREAS, in order to promote a clear understanding and provide additional detail regarding the use and maintenance of Station #2 by the TPVFD.

In consideration of the provisions contained in this agreement, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties mutually agree as follows:

#### 1. USE BY THIRD PARTIES:

The TPVFD is permitted to allow Station #2 to be used by third parties for activities customarily associated with a fire station including birthday parties and community meetings. This use must be coordinated with the MCFRS station liaison as identified by the MCFRS Fire Chief. No alcoholic beverages will be permitted in the building. Any revenues that may be collected from this use will be forwarded to the County.

#### 2. STATION MAINTENANCE:

Although the County will be responsible for maintaining the building, the TPVFD has the ability to maintain the following components of the station including:

a) care and maintenance of interior finishes such as: painting walls, cleaning and replacing carpets and repairing countertops and cabinets, b) care and maintenance of station appliances such as kitchen equipment and c) normal routine maintenance such as light bulb replacements. The TPVFD will be responsible for

coordinating repairs with the County for all station components unless this responsibility is delegated to the MCFRS station liaison.

### 3. INSURANCE

TPVFD must maintain insurance of the type and amount required by the County of other local fire and rescue departments.

### 4. DISPUTE RESOLUTION

Both parties agree that it is in their mutual best interest to develop the new station in a timely and efficient manner. Recognizing the possibility that over the course of the project and during the operation of the station that disagreements may occur on the interpretation and application of this Agreement, both Parties agree that prior to any other action the President of the TPVFD and the MCFRS Fire Chief will conduct a good faith negotiation to resolve the dispute. The negotiation shall not be binding on either party but shall be a requisite step before proceeding with any other dispute resolution process.

### 5. SIGNAGE

TPVFD may erect or permit the display on the Property of any sign or display except signs and displays that concern:

- (a) fire and rescue services;
- (b) a permitted function on the property;
- (c) secular holiday or seasonal displays normally erected by a volunteer fire/rescue corporation in Montgomery County; and
- (d) non-political non-partisan public service messages.

TPVFD must comply with all applicable local and County codes when erecting or displaying signage.

### 6. MISCELLANEOUS PROVISIONS


- (a) This Agreement may not be amended, altered, or modified except in writing executed by the Parties.
- (b) The person executing this Agreement on behalf of the TPVFD is authorized to do so and upon execution of this Agreement on behalf of the TPVFD, this MOU is fully binding on TPVFD.
- (c) This Agreement shall be governed by and interpreted in accordance with the laws of the State of Maryland, without regard to its conflict of law principles.
- (d) Any action to enforce the provisions of this MOU must be brought and maintained in a court of competent jurisdiction located in Montgomery County, Maryland.

IN WITNESS WHEREOF, the Parties have caused this AGREEMENT to be properly executed.

WITNESS:

COUNTY:  
MONTGOMERY COUNTY,  
MARYLAND

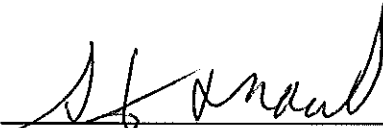
By: Rebecca S. Domaruk

By:   
Timothy E. Firestine,  
Chief Administrative Officer

Date: 11/20/2007

WITNESS:

TPVFD:  
TAKOMA PARK VOLUNTEER FIRE  
DEPARTMENT, INC.

By: 

By: Edward E. Warner


Title: 7-17-07 PRESIDENT

Date: 7-17-07

APPROVED AS TO FORM &  
LEGALITY  
OFFICE OF THE COUNTY  
ATTORNEY

RECOMMENDED

By: Lileen P. Basam

By:   
Thomas W. Carr, Jr., Fire Chief  
Montgomery County Fire and Rescue  
Service

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (the "MOU"), made this 20<sup>th</sup> day of November, 2007, by and between MONTGOMERY COUNTY, MARYLAND, a body corporate and politic (the "County") and TAKOMA PARK VOLUNTEER FIRE DEPARTMENT, INC., a Maryland nonprofit 501 (c) 3 organization (the "TPVFD"), (the County and the TPVFD together the "Parties").

WHEREAS, Takoma Park Fire Station 2 is being replaced by the County under CIP project #459967 on the site of the current Station 2 and other parcels of land acquired by the County; and

WHEREAS, the TPVFD owns the site of the current Station 2 and has agreed to transfer ownership of the site, identified as that same property described in a Deed recorded among the Land Records of Montgomery County, Maryland, in Liber 4859 at Folio 583, and also described as Parcel 30 on Tax Map JN561 and Parcel Pt. 31 on Tax Map JN562, to the County in exchange for certain use rights in the Replacement Station, to include exclusive use of certain areas and the right to fund and buildout a basement room; and

WHEREAS, time is of the essence to begin the project, the County having retained a construction contractor and being ready to issue a Notice to Proceed, and the Parties being anxious to bring this long awaited project to a successful conclusion;

NOW THEREFORE, in consideration of the above recitals which are incorporated into this MOU as if fully set forth and of the mutual promises made by the Parties to each other during the development of CIP project #459967, the Parties agree as follows:

1. The Parties will negotiate and execute a License Agreement and a Facility Operating Agreement (the "Agreements") which will contain the basic terms and conditions under which the TPVFD and the County will share occupancy of Station 2. The License Agreement will grant the TPVFD exclusive use and control of certain areas of the Station, the right to buildout the basement room identified as room 101 upon terms and conditions to be agreed upon in the License, and the ability to perform some maintenance or repair functions as described in the

Facility Operating Agreement. The Facility Operating Agreement will address operational matters that may from time to time be amended as deemed necessary by the Parties.

2. In return for the rights and responsibilities contained in the Agreements, the TPVFD will execute and record a Special Warranty Deed conveying the property described in the recitals to Montgomery County, Maryland.

3. The TPVFD acknowledges that time is of the essence and will use its best efforts to convey the deed as quickly as possible. In the event that the County issues Notice to Proceed to its contractor prior to recordation of the deed, the TPVFD agrees to cooperate with the County, or its' designee, by allowing access to the site for the purposes of preparatory activities. The County agrees not to materially disrupt the operations of the current Station 2. The Parties will work together to minimize the impact of any such activities to the operations of the current Station 2.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have caused this AGREEMENT to be properly executed.

WITNESS:

COUNTY:  
MONTGOMERY COUNTY,  
MARYLAND

By: Rebecca S. Domaruk

By: Timothy L. Firestine  
Timothy L. Firestine,  
Chief Administrative Officer

Date: 11/20/2007

WITNESS:

LICENSEE:  
TAKOMA PARK VOLUNTEER FIRE  
DEPARTMENT, INC.

By: [Signature]

By: Ellen E. Hamer

Title: PRESIDENT

Date: 7-17-07

APPROVED AS TO FORM &  
LEGALITY  
OFFICE OF THE COUNTY  
ATTORNEY

RECOMMENDED:

By: Sileen J. Brennan

By: Cynthia L. Brenneman  
Cynthia L. Brenneman, Director  
Office of Real Estate

Date: 7/17/2007

Date: 7/16/07

RECOMMENDED:

By: Thomas W. Carr  
Thomas W. Carr, Fire Chief  
Montgomery County Fire and Rescue  
Services

Date: 7/16/07